

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	CASE NO. 1:05CR26
)	
Plaintiff,)	
)	
vs.)	Judge Peter C. Economus
)	
JONATHAN SMITH,)	
)	
Defendant.)	<u>ORDER</u>

On August 6, 2005, Jonathan Smith, defendant, was sentenced to twenty-four (24) months imprisonment, followed by three (3) years of supervised release, for one count of conspiracy to possess with intent to distribute cocaine base, a Class C felony. His supervised release commenced on August 17, 2007.

On August 21, 2009, the Defendant's probation officer submitted a Violation Report and Emergency Warrant Request, indicating that the Defendant had been arrested for a violation of Ohio state drug laws, and that the Defendant had therefore been terminated from the Location Monitoring Program. (Dkt. # 144). The Court issued a warrant for the Defendant's arrest, to be lodged as a detainer. (Dkt. # 144).

On December 28, 2010, the Defendant's probation officer submitted a violation report, following up on the August 21 Report, alleging the following two (2) new law

violations:

1. **New law Violation #1:** On 11/25/2009, the offender was sentenced in case CR-09-524223 in the Cuyahoga County Court of Common Pleas after pleading guilty to Robbery. He was sentenced to 18 months community control. Community control sanctions are conditional upon the offender serving 18 months in federal custody on a supervised release violation. Should the offender not receive a federal custody sentence, he is to be re-sentenced in this case. Details of this offense were reported to this Court in a Violation Report dated 07/15/2009.
2. **New Law Violation # 2:** On 11/25/2009, the offender was sentenced in case CR-09-528092 in the Cuyahoga County Court of Common Pleas after pleading guilty to Trafficking Offenses with Forfeiture Specification. He was sentenced to 18 months community control. Community control sanctions are conditional upon the offender serving 18 months in federal custody on a supervised release violation. Should the offender not receive a federal custody sentence, he is to be re-sentenced in this case. Sentence to run concurrent with sentence in case CR-09-524223 and federal sentence. According to a Cleveland Police Department (CPD) report, the offender and a female were arrested at the offender's residence following a controlled purchase of marijuana. A search of the residence revealed marijuana, a scale, packaging material, and marked CPD money.

This matter was referred to Magistrate Judge James S. Gallas. On January 11, 2010, the Defendant, represented by Attorney Edward Bryan, appeared before Magistrate Judge James S. Gallas and admitted to both violations. The Defendant waived his right to a preliminary examination and detention hearing.

On January 21, 2010, the Court held a hearing regarding the alleged violation. The Defendant was represented by Attorney Edward Bryan. The United States was represented at the hearing by Assistant United States Attorney Edward Feran. At the hearing, the Court, based upon the Defendant's admissions, found that the Defendant has

violated the terms of his supervised release.

The Court has considered the statutory maximum sentence of two years pursuant to 18 U.S.C. § 3583(e)(3). The Court also has considered the advisory policy statements set forth in Chapter Seven of the United States Sentencing Guidelines prior to imposing sentence. The guideline range is 18-24 months pursuant to U.S.S.G. § 7B1.4(a). The Court further has considered the factors for sentencing listed in 18 U.S.C. § 3553(a) and 3583(d).

Based on this Court's review of all relevant factors, the Court hereby orders that the Defendant's supervised release is **REVOKED**, and the Defendant is committed to the custody of the Bureau of Prisons for a period of twenty-four (24) months. Furthermore, the Defendant's remaining term of supervised release is hereby terminated.

IT IS SO ORDERED.

Issued: January 21, 2010

s/ Peter C. Economus
PETER C. ECONOMUS
UNITED STATES DISTRICT JUDGE